

**JOINT VENTURE
BETWEEN
AT&T CORP.
AND
BRITISH TELECOMMUNICATIONS PLC**

**EXHIBITS I TO P
TO THE
FRAMEWORK AGREEMENT**

VOLUME III

As of October 23, 1998



RECYCLED

COI

ALL STATE LEGAL 800 722-0010

EXHIBIT I

FORM OF THISTLE BV CHARTER DOCUMENTS

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(informal translation)

EXHIBIT I
to the Framework Agreement

AMENDMENT OF THE ARTICLES OF ASSOCIATION.

On this day, []
appeared before me,
[], civil law notary, residing in []:
[]

The appearer declared:

- the deed of incorporation of the private company with limited liability Thistle B.V., with registered office in Amsterdam has been executed on the twentieth day of October nineteen hundred ninety eight before Martine Bijkerk, civil law notary, residing in Amsterdam, on the draft of which deed the ministerial declaration of no-objection has been granted on the sixteenth day of October nineteen hundred ninety eight under number B.V. 1.040.836;
- that the shareholder of said company has resolved to amend the Articles of Association;
- furthermore it is resolved to authorize the appearer to sign the deed of amendment of the Articles of Association and to adopt new Articles of Association in substitution therefor;
- evidence of said resolutions is by means of a copy of a shareholders' resolution to be attached to this instrument.

In order to carry out said resolutions the appearer subsequently declared to amend the Articles of Association as follows:

DEFINITIONS.

ARTICLE 1.

In these articles of association the following expressions shall have the

following meanings:

- constituent body: the Management Board or the general meeting;
- general meeting: the constituent body formed by shareholders;
- general meeting of shareholders: the meeting of shareholders;
- Managing Director(s): Managing Director(s) as meant in Netherlands law
- Management Board: the constituent body formed by Managing Director(s)

NAME AND SEAT.

ARTICLE 2.

1. The name of the company is:
[Newco B.V.].
2. The company has its registered office [_____].

OBJECTS.

ARTICLE 3.

The objects of the company are:

- executing and delivering an agreement by and among AT&T Corp., VLS Corporation, British Telecommunications plc, BT (Netherlands) Holdings B.V. and the company (the "Framework Agreement") and the agreements mentioned in or resulting from the Framework Agreement to which the company is to be a party, the performance of the obligations thereunder, the consummation of the transactions contemplated thereby and the conduct of the business conducted by all of the foregoing;
- incorporation of, participation in and financing of companies or enterprises;
- collaboration with, conducting the management of and providing advice and other services to companies or other enterprises;
- lending and borrowing funds;
- providing collateral for the debts and other obligations of the company or of other companies or enterprises with which the company is affiliated in a group or of third parties;
- acquisition, exploitation and disposal of (registered) property;
- acquisition, exploitation and disposal of industrial and intellectual property rights,

as well as comprising all of that which is incidental to the above or which

could be conducive thereto, in the broadest sense of the words.

CAPITAL AND SHARES, CAPITAL SURPLUS

ARTICLE 4.

1. The authorised capital amounts to [] Netherlands Guilders (NLG []) and is divided into [] class A shares with a nominal value of [one hundred] Netherlands Guilders (NLG [100.-]) and [] class B shares with a nominal value of [four hundred] Netherlands Guilders (NLG [400.-]).

Notwithstanding such difference in par value, the class A shares and the class B shares shall be treated for purposes of any distributions on or in respect of such shares or any rights with respect to such shares as though the par value of the class A shares and the class B shares were the same.

2. The shares are registered and are per class numbered consecutively from 1 onwards.
3. Wherever the term "shares" or "shareholders" is used in the present Articles, this shall be construed to mean both class A shares and class B shares or the holders of class A shares and the holders of class B shares respectively, unless the contrary has been stipulated in so many words.
4. An account in favour of the shares of a particular class shall be included in the company's books, and shall be titled: capital surplus reserve shares, followed by the letter corresponding to the class of shares concerned.
5. The company shall not issue share certificates.
6. If shares or rights to shares form part of jointly-held property each of the holders may only be represented by a person holding a written proxy signed by them all.

ISSUE

ARTICLE 5.

1. The issue of shares is effected by virtue of a resolution adopted by the general meeting.

Such a resolution shall also set out the rates and other terms and conditions of issue.

The rate of issue may not be below par.

2. The general meeting may delegate its powers in this respect to another constituent body and may revoke such delegation.
3. Shareholders shall not have a pre-emptive right on any issue of shares.

OWN SHARES.

ARTICLE 6.

1. The company may not subscribe for shares in its own capital upon the issue of shares.
2. The acquisition by the company of not fully paid-up shares in its own capital shall be null and void, unless such shares are acquired under general title.
3. The company may only acquire fully paid-up shares in its own capital under gratuitous title or in accordance with Netherlands law.
4. The provisions set out below for the restriction on the transfer of shares are applicable to the disposal of shares which the company holds in its own capital.
5. "Shares" as used in this article shall include depository receipts issued in respect thereof.

ARTICLE 7.

1. The company may not provide collateral, guarantee the price, otherwise guarantee or otherwise bind itself jointly and severally with or on behalf of third parties, for the purpose of subscription to or acquisition of shares in its own capital, or of depository receipts issued in respect thereof.
2. The company shall be prohibited from providing loans for the purpose of subscription to, or acquisition of shares in its own capital, or depository receipts issued in respect thereof.

REDUCTION OF CAPITAL.

ARTICLE 8.

1. The general meeting may resolve to reduce the issued capital by cancellation of shares or by reduction of the nominal amount of the shares by amendment of the articles of association.
2. The provisions of Netherlands law are applicable to the resolution described above and the execution thereof.

THE ISSUE OF DEPOSITARY RECEIPTS FOR, THE PLEDGING OF AND
THE ESTABLISHMENT OF A RIGHT OF USUFRUCT ON SHARES.

ARTICLE 9.

1. The company shall not cooperate in issuing depositary receipts in respect of shares in the company.
2. A right of usufruct may be granted on shares; the shareholder exercises the voting rights attached to such shares.
3. A right of pledge may not be granted on shares.

REGISTER OF SHAREHOLDERS.

ARTICLE 10.

1. The Management Board shall keep a register recording the names and addresses of all shareholders per class, stating the date on which they acquired the shares, the date of acknowledgement by, or service upon the company, and the amount paid up on each share.

The names and addresses of those persons who have a right of usufruct in respect of shares shall also be recorded, stating the date on which they acquired the right, the date of acknowledgement by, or service upon, the company.

2. All shareholders and usufructuaries are obliged to ensure that the company has been notified of their address.
3. The register shall be regularly updated in accordance with Netherlands law.
4. All entries in, copies of, or extracts from, the register of shareholders shall be authenticated by a Managing Director.

RESTRICTION ON THE TRANSFER OF SHARES.

ARTICLE 11.

1. Shares may be transferred only after the shareholder concerned (the "requestor") has obtained approval for the intended transfer from the general meeting.
2. The request shall be deemed to have been approved if:
 - the requestor has not yet been notified of a decision within three months after receipt of the request to grant approval; or
 - together with a rejection of the request, the requestor has not been notified of (a) prospective purchaser(s) designated by the general

meeting (the "designated prospective purchaser") who is (are) willing and able to purchase all the shares included in the request against payment in cash.

The company itself may be a prospective purchaser only with the consent of the requestor.

If, before the lapse of the abovementioned period, it has already been established that there are circumstances on the grounds of which the request is deemed to have been approved, the Management Board shall notify the requestor thereof at the earliest possible opportunity.

3. The price to be paid for the shares for which a decision is being sought shall be determined by the parties by mutual consent.

If the parties fail to reach agreement on this, the price shall be determined by one or more independent experts to be appointed by the requestor and the designated prospective purchasers by mutual consent.

4. The requestor may withdraw his request at any time, provided this is done within a period of one month after he has been notified to which designated prospective purchaser(s) he may sell the shares, and at what price.

A designated prospective purchaser is entitled to withdraw within one month of having been notified of the price.

If, after the withdrawal of one or more designated prospective purchasers, the remaining prospective purchasers are not prepared to purchase all shares within two weeks after such withdrawal, the approval shall be deemed to be granted.

5. If he has not withdrawn his request, the requestor can transfer the shares for which the approval has been sought, within three months after the approval has been granted, or is deemed to have been granted.
6. All notices and other communications pursuant to this article shall be sent by registered mail.
7. The provisions of this article do not apply if the holder is obliged under Netherlands law to transfer his share to a former holder.

TRANSFER OF SHARES.

ARTICLE 12.

1. The issue and transfer of a share, or the transfer of a limited right to a

share, requires a deed executed before a notary officiating in the Netherlands, to which all persons involved are party.

2. The transfer of a share, or the transfer of a limited right to a share, in accordance with the provisions of the previous section shall, by operation of Netherlands law, have effect against the company.

Save in the event that the company itself is party to the legal transaction the rights accruing to the share may not be exercised before the company has acknowledged this legal transaction or before the deed of transfer is served upon it in accordance with Netherlands law.

MANAGEMENT BOARD.

ARTICLE 13.

1. The company has a Management Board, consisting of one Managing Director.
2. Managing Director shall be appointed by the general meeting.
3. Managing Director may be suspended or dismissed by the general meeting at all times.
4. A suspension may last no longer than three months in total, even after it has been extended one or more times.
5. The remuneration of and other terms and conditions upon which each individual Managing Director is appointed, shall be laid down by the general meeting.

ARTICLE 14.

1. The Management Board may adopt rules and regulations with respect to meetings of the Management Board.
2. The Management Board may adopt resolutions without convening a meeting, provided that all the Managing Directors have been consulted and that none of them have objected to adopting resolution in this manner.
3. All resolutions to be adopted by the Management Board concerning such legal acts as shall be determined and clearly defined by the general meeting and brought to the attention of the Management Board in writing, are subject to the prior approval of the general meeting:
The absence of the approval defined in this paragraph shall not affect the powers of the Management Board or of the Managing Director to

represent the company.

ARTICLE 15.

In the event that the Managing Director is absent or prevented from acting, the management of the company shall temporarily be vested in a person appointed for that purpose by the general meeting.

REPRESENTATION.

ARTICLE 16.

1. To the extent that Netherlands law does not provide otherwise, the company shall be represented by the Managing Director.
2. If a conflict of interest arises between the company and the Managing Director, the Managing Director shall nevertheless be authorized to represent the company.

FINANCIAL YEAR, ANNUAL ACCOUNTS, ANNUAL REPORT.

ARTICLE 17.

1. The company's financial year shall be concurrent with the calendar year.
2. The Management Board shall prepare the annual accounts (consisting of the balance-sheet and profit and loss account with explanatory notes thereto) within fifteen Business Days (as defined in the Framework Agreement) of the end of each financial year.

The annual accounts shall be signed by the Managing Director.

If the signature(s) is missing, this shall be stated giving the reason therefor.

Unless the provisions of section 2:403 of the Netherlands Civil Code are applicable to the company, the Management Board shall also prepare an annual report within the abovementioned period.

3. If, and to the extent that, on that subject any provisions of Netherlands law are applicable to the company, the general meeting shall instruct a registered accountant or a firm of registered accountants as defined in section 2:393, subsection 1 of the Netherlands Civil Code, to examine the annual accounts and - if this has been prepared - the annual report prepared by the Management Board, to write a report thereon and to issue a certificate therefor.
4. The annual accounts shall be adopted by the general meeting.

Without prejudice to that which is laid down in Netherlands law, the

unconditional adoption of the annual accounts shall constitute a discharge from liability in respect of the Management Board for the acts performed by it during the financial year concerned.

5. If, and to the extent that, it is required under Netherlands law, the company is obliged to make the annual accounts public at the Commercial Register.

APPROPRIATION OF PROFITS.

ARTICLE 18.

1. The company may make distributions to the shareholders and other persons entitled to the distributable profits only to the extent that the company's shareholders' equity exceeds the paid-up and called-up part of the company's capital, plus the reserves which must be maintained under Netherlands law.
2. The profits evidenced by the profit and loss accounts adopted by the general meeting shall be at the disposal of the general meeting.
3. The company may make interim (profit-)distributions only to the extent that the stipulations set out in subsection 1 above have been complied with, and provided that it has obtained the prior approval of the general meeting.
4. There shall be no distribution of profits in favour of the company or shares or depositary receipts issued in respect thereof, which the company has acquired in its own capital.
5. In computing the distribution of profits, the shares or depositary receipts issued in respect thereof on which no distribution shall be made in favour of the company in pursuance of the provisions of subsection 4 above, shall be disregarded.
6. The right to receive a distribution shall be precluded after the lapse of five years, to be calculated from the day on which such a distribution became payable.

MEETINGS OF SHAREHOLDERS.

ARTICLE 19.

1. The annual meeting of shareholders shall be held every year within six months after the end of the financial year, unless the period laid down in article 17, subsection 2 above is extended in conformity with the

provisions set out in the said article.

In this meeting the following shall at any rate be considered:

- the annual report;
- the adoption of the annual accounts;
- the instruction to an expert as referred to in section 2:393 of the Netherlands Civil Code, if obligatory under Netherlands law;
- the language in which the items of the next annual accounts shall be stated and the currency.

2. The general meeting of shareholders shall be held in the municipality where the company has its registered office.
3. The notice convening the shareholders shall be issued by the Management Board by means of convening letters which must be despatched no later than on the fifteenth day before the date of the meeting.
4. The convening letters shall set out the place, date and time of the meeting and the matters to be considered.

The convening letters shall be despatched to the addresses recorded in the register of shareholders.

If one or more convening notices which have been despatched in accordance with the stipulations set out above, fail to reach their destination, this fact shall not affect the validity of the general meeting of shareholders, or the resolutions to be adopted therein.

5. The general meeting of shareholders shall appoint its own chairman.
6. Minutes shall be drawn up of the matters dealt with in a general meeting of shareholders unless a notarial record is drawn up of the proceedings.

The minutes shall be entered into a register intended for that purpose and shall be adopted and signed by the chairman of the meeting and by the secretary of the meeting to be appointed by the chairman at the commencement of the meeting.

The minutes or the notarial record of the proceedings shall serve as evidence of the resolutions adopted in the general meeting of shareholders.

ARTICLE 20.

1. All shareholders, either in person or by means of a person holding a

written proxy, shall be entitled to attend general meetings of shareholders and to address that meeting. The Managing Director shall have an advisory vote at the general meetings of shareholders in that capacity.

2. In order to be able to participate in the voting, the shareholders or their representatives must sign the attendance book, recording the number of shares represented by them.
3. Every share entitles the holder thereof to cast one vote.
Blank votes shall be deemed not to have been cast.
4. In general meetings of shareholders, no votes may be cast for shares belonging to the company or to any subsidiary thereof, nor may votes be cast for a share for which either of them holds depositary receipts.
5. The sum of the shares in respect whereof, according to the provisions in Netherlands law, no voting-rights may be exercised, shall be disregarded in determining to which extent the shareholders entitled to vote, are present or represented, or to which extent the share capital is provided or represented.
6. Resolutions passed in a general meeting of shareholders shall be adopted as set forth in the Framework Agreement, or, when such Agreement is silent, by a majority of the votes cast in a meeting in which the majority of the outstanding share capital is represented or, if such majority and such quorum are not permitted by law, the resolutions concerned will be adopted by the largest majority and quorum permitted by law.

If within two hours from the time appointed for a meeting such quorum is not represented, the meeting shall be adjourned to such place and time (which is at least seven days later but not later than fourteen days later) as the shareholder(s) that did attend shall decide.

If at such adjourned meeting, such quorum is not present within two hours from the time appointed for the meeting, the meeting shall be further adjourned to such place and time (which is at least seven days later, but not later than fourteen days later) as the shareholder(s) that attended the adjourned meeting shall decide, at which time any shareholder(s) present at such second adjourned meeting shall

constitute a quorum.

7. Voting shall be done orally, unless the chairman of the general meeting of shareholders decides otherwise.
8. In case of a tie in voting the proposal shall be deemed to be rejected.
9. In a general meeting of shareholders in which the entire issued capital is represented, resolutions which are valid in Netherlands law may be adopted, even if the requirements in respect of the convening and holding of meetings have not been complied with, provided such resolutions are adopted unanimously.
10. The Management Board of the company shall keep a record of its adopted resolutions. Such record shall be available at the office of the company for inspection by the shareholders. Each of them shall, upon request, be provided with a copy or extract from such record at no more than cost.

ARTICLE 21.

Shareholders may also adopt resolutions without convening a meeting of shareholders, provided that all the shareholders have declared in writing (including telegrams, telexes and telecopier) to be in favour of the resolution and provided that the Managing Director(s) has (have) had the opportunity to cast an advisory vote.

MEETINGS OF THE HOLDERS OF SHARES OF A PARTICULAR CLASS.

ARTICLE 22.

1. Meetings of holders of shares of a particular class shall be convened by the Management Board or by a holder of one or more shares of the class concerned.

2. Articles 19, 20 and 21 shall otherwise be applicable "mutatis mutandis".

MERGER, DIVISION, AMENDMENT TO THE ARTICLES OF ASSOCIATION, WINDING-UP.

ARTICLE 23.

1. The general meeting may resolve to merge, to divide the company, to amend the articles of association, or to wind-up the company.
2. The persons who convened a general meeting of shareholders in which a proposal to adopt a resolution to amend the articles of association is to be considered, must deposit a copy of the proposal, citing the

verbatim text of the proposed amendment, for examination at the offices of the company until after the close of the meeting.

The shareholders must be given the opportunity to obtain a copy of the proposal described in the previous sentence as from the day on which the convening notice for that meeting is despatched until the day of the general meeting of shareholders.

Such copies shall be provided free of charge.

3. In the event that a resolution to dissolve the company is adopted, the liquidation shall be arranged by the Management Board, unless the court should appoint another liquidator or other liquidators.

The remuneration to be paid to the liquidator, or the joint liquidators, shall be resolved simultaneously with a resolution to liquidate the company.

4. The articles of association shall remain effective during the course of liquidation in as far as possible.
5. The liquidation surplus shall be distributed to shareholders and other parties entitled thereto in proportion to their respective rights.
6. After the liquidation has been completed, the books and documents of the dissolved company shall remain in the possession of a person to be appointed for that purpose by the general meeting for a period of seven years.

FINAL STATEMENTS.

Finally the appearer declared:

- the issued capital amounts to forty thousand Netherlands guilders (NLG 40,000.-), divided into four hundred (400) shares with a nominal value of one hundred Netherlands guilders (NLG 100.-) each, which shares are hereby converted into eighty (80) class A shares with a nominal value of [one hundred] Netherlands guilders (NLG [100.-]) and eighty (80) class B shares with a nominal value of [four hundred] Netherlands guilders (NLG [400.-]);
- according to a ministerial order which is to be attached to this instrument, the ministerial declaration of no-objection has been granted on the [

_____]
under number B.V. 1.040.836.

The appearer is known to me, notary, and the identity of the appearer connected with this deed has been established by me, notary, from the above-mentioned document submitted for this purpose.

THIS DEED,

is executed in Amsterdam on the date stated at the head of the deed.

After the contents of this deed had been briefly summed up for the appearer, he declared himself to be acquainted with the contents of this deed and did not require it to be read out in full.

After it had been read in outline, this deed was then signed by the appearer and by me, the notary.

EXHIBIT J-1

**FORM OF CERTIFICATE OF FORMATION
OF NEWCO SERVICES COMPANY**

CONFIDENTIAL

**SUBJECT TO THE CONFIDENTIALITY AGREEMENTS
BETWEEN AT&T AND BT
DATED MARCH 11, 1998 AND JUNE 8, 1998**

**Exhibit J-1
to the Framework Agreement**

CERTIFICATE OF FORMATION

OF

SERVESCO L.L.C.

The undersigned, an authorized natural person, for the purpose of forming a limited liability company, under the provisions and subject to the requirements of the State of Delaware (particularly Chapter 18, Title 6 of the Delaware Code and the acts amendatory thereof and supplemental thereto, and known, identified, and referred to as the "Delaware Limited Liability Company Act"), hereby certifies that:

FIRST: The name of the limited liability company (hereinafter called the "Limited Liability Company") is [ServicesCo L.L.C.] .

SECOND: The address of the registered office and the name and the address of the registered agent of the Limited Liability Company required to be maintained by Section 18-104 of the Delaware Limited Liability Company Act are _____, Delaware _____.

Executed on _____, _____.

Authorized Person



RECYCLED

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EXHIBIT J-2

**FORM OF LIMITED LIABILITY COMPANY AGREEMENT
OF NEWCO SERVICES COMPANY**

OPERATING AGREEMENT

OF

SERVICES CO L.L.C.

(a Delaware limited liability company)

This Operating Agreement (this "Agreement") of [Services Co] L.L.C., a Delaware limited liability company (the "Company"), dated as of _____, _____, is adopted and entered into between VLT Corporation, a corporation incorporated under the laws of the State of Delaware, United States of America ("VLT"), and BT (Netherlands) Holdings B.V., a *Besloten Vennootschap* organized under the laws of The Netherlands ("BT Holdings"), as the Managing Members of the Company (the "Managing Members"), pursuant to and in accordance with the Delaware Limited Liability Company Act (6 Del. C. § 18-101, et seq.), as amended from time to time (the "Act"), and the terms of this Agreement which shall be deemed to be the Company's limited liability company agreement under § 18-107(7) of the Act.

R E C I T A L S :

A. The Managing Members have formed a joint venture pursuant to a Framework Agreement, dated as of October __, 1998 (the "Framework Agreement"), among AT&T Corp., VLT, British Telecommunications plc ("BT"), BT Holdings and Thistle B.V., a *Besloten Vennootschap* organized under the laws of The Netherlands ("Thistle BV"). Capitalized expressions and other defined terms used but not defined herein shall have the respective meanings assigned to them in the Framework Agreement.

B. The joint venture will be implemented through Thistle BV and separate Subsidiaries of Thistle BV organized or incorporated in the United States, England and, if necessary or appropriate, elsewhere.

C. The Managing Members have agreed that, at all times, the Company will manage certain of the operations of the Newco Group in or from the United States for which it will be compensated on an arms' length basis.

D. The Managing Members have agreed to form the Company as a limited liability company pursuant to the Act.

E. On _____, _____, the Managing Members caused to be filed a Certificate of Formation of the Company with the Secretary of State of the State of Delaware (the "Certificate").

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the adequacy and sufficiency of which are hereby acknowledged, the Managing Members hereby agree as follows:

ARTICLE 1

THE COMPANY

1.1. Company Name. The name of the Company is [Services Co] L.L.C., and all business of the Company shall be conducted under that name or under any other name, but in any case, only to the extent permitted by Applicable Law.

1.2. Registered Agent and Office. The Company shall maintain a registered office in the State of Delaware, which shall be the office of the Company's registered agent in

Delaware. The name and address of the Company's registered agent in the State of Delaware is _____ . Such registered agent and office may be changed from time to time by the Managing Members.

1.3. Principal Place of Business. The business address and office of the Company shall be _____ , or at such other or additional place or places as the Managing Members determine from time to time.

1.4. Term. The term of the Company commenced on the date of the filing of the Certificate and shall continue until terminated or dissolved in accordance with the Act and this Agreement.

1.5. Filings. The Managing Members shall promptly cause the execution and delivery of such documents and performance of such acts consistent with the terms of this Agreement as may be necessary to comply with the requirements of law for the formation, qualification and operation of a limited liability company under the laws of each jurisdiction in which the Company shall conduct business and, if applicable, to operate under an assumed name as may be required by Applicable Law in effect in each such jurisdiction.

1.6. Purpose. The business of the Company shall be restricted to managing some or all of the operations of the Newco Group in or from the United States, and doing such additional things and executing such agreements, documents and instruments as shall be necessary or appropriate to implement the actions and decisions so made and activities so undertaken.

1.7. Powers of the Company. Except as otherwise provided in this Agreement, the Act or any other applicable laws and regulations, the Company shall have the power and authority to take any and all actions necessary, appropriate, proper, advisable, convenient or incidental to or for the furtherance of the purposes set forth in Section 1.6.

1.8. Management. Management of the Company shall be vested in the Managing Members who shall manage the Company in accordance with the Act. The Managing Members shall be subject to all of the duties and liabilities of a manager provided in the Act. The Managing Members shall have the power and authority to take any and all actions necessary or convenient to or for the furtherance of the purposes of the Company set forth in this Agreement, including all powers of a manager under the Act pursuant to, and consistent with the terms of, the Framework Agreement and this Agreement.

ARTICLE 2

BOARD OF THE COMPANY

2.1. The Company Board; Manager. Except as provided herein, the business of the Company as set forth in Section 1.6 shall be undertaken by the management board of the Company (the "Company Board"), as set forth below.

2.2. Establishment of the Company Board.

(a) The Company Board shall consist of an even number of members (each a "Representative" and together, the "Representatives"), one-half of whom shall be appointed by VLT and one-half of whom shall be appointed by BT Holdings. The

Representatives appointed by VLT are herein referred to as the “Class A Representatives” and the Representatives appointed by BT Holdings are herein referred to as the “Class B Representatives.”

(b) A Managing Member may at any time remove any or all of its Representatives on the Company Board, with or without cause, by written notice to the other Managing Member. Except as provided in the preceding sentence, no Representative appointed by a Manager Member may be removed from the Company Board.

(c) If any Representative resigns or is removed in accordance with Section 2.2(b), or a vacancy of a Representative should occur for any reason, the Managing Member that originally appointed such Representative shall, before the transaction of any other business by the Managing Members, in such capacity, or the Company Board, appoint a successor or replacement Representative. Such successor or replacement Representative shall be appointed on or as soon as possible after the date of such resignation or removal.

2.3. Chairman. A chairman (the “Chairman”) will be appointed by the Representatives from among themselves. The Chairman will preside over meetings of the Company Board.

2.4. Voting. Each Class A Representative and Class B Representative, including the Chairman, shall have a single vote.

ARTICLE 3

DECISION-MAKING AUTHORITY

- 3.1. Matters Requiring Unanimous Managing Member Approval. The following matters shall require the unanimous vote of both Managing Members, acting as the Managing Members:
- (a) a decision to modify or amend this Agreement or the Certificate;
 - (b) a decision to modify, change or alter the nature or scope of the business of the Company;
 - (c) a decision to admit, directly or indirectly, additional members to the Company;
 - (d) the dissolution or liquidation of, or the filing of a petition under any Bankruptcy Law by the Company; provided, that, in the case of a dissolution of the Newco Group pursuant to Section 11.2(d), 11.5(c)(iii), 13.4, 13.5, 14.3, 23.2, 23.4, 23.5 or 23.7 of the Framework Agreement, following the delivery of a notice to elect to cause the dissolution of the Newco Group by a parent which is entitled to do so thereunder, the Managing Members shall, subject to any cure periods provided in the Framework Agreement, vote their membership interests in favor of the dissolution of the Company; and
 - (e) any sale, lease, transfer or other disposition of all or substantially all of the assets of the Company or the merger, consolidation or sale of the Company, other than pursuant to Section 11.2(d), 11.5(c)(iii), 13.4, 13.5, 14.3, 23.2, 23.4, 23.5 or 23.7 of the Framework Agreement.

3.2. Company Board Decisions.

(a) Except to the extent authority is delegated to the Managing Members or their parents by the Framework Agreement, any other Transaction Agreement or this Agreement, the Company Board shall cause the Company to carry out the business specified in Section 1.6. For this purpose, the Company Board may form any committee of the Company Board and delegate decision-making authority of the Company Board thereto. Any decision to form any committee of the Company Board, or any variation to the terms, manner of appointment, operation or composition of any such committee (which shall in all cases be comprised of an equal number of members nominated by each Managing Member) shall require a majority vote of each of the Class A Representatives and the Class B Representatives.

(b) Any action by the Company Board shall require a majority vote of each of the Class A Representatives and the Class B Representatives.

3.3. Business Judgment. The Managing Members acknowledge and confirm that the Representatives will exercise business judgment taking into account the interests of the Company and the Newco Group as a whole and that, in furtherance of such objective, the Representatives shall be protected in making decisions and shall be entitled, to the fullest extent permitted by Applicable Law, to indemnification by all of the Company, Thistle BV and the Newco Group for any act or omission if the Representatives acted in good faith and in a manner the Representatives reasonably believed was in, or not opposed to, the best interests of the Company and the Newco Group as a whole.

3.4. No Remuneration. Unless the Managing Members, acting in their capacity as the members of the Company, agree, no person shall be entitled to any fee, remuneration or compensation in connection with his or her service as a Representative, except that the Company shall reimburse the Representatives for travel and other expenses incurred in connection with their attendance at Company Board meetings.

ARTICLE 4

CAPITAL CONTRIBUTIONS; ALLOCATIONS

4.1. Capital Contributions. The Managing Members hereby agree to contribute to the Company the following amounts in cash, and no other property:

<u>Managing Members</u>	<u>Amount of Capital Contribution</u>
VLT	[\$ _____]
BT Holdings	[\$ _____]

4.2. Additional Contributions. No Managing Member shall be required to make any additional capital contributions to the Company.

4.3. Capital Accounts. A capital account shall be maintained for each Managing Member in accordance with the capital account maintenance rules of the Internal Revenue Service Regulation § 1.704-1(b)(2)(iv) and as provided herein. Such capital account shall be credited with contributions and profits, charged with distributions and losses and otherwise adjusted as set forth herein and as the Managing Members agree.

4.4. Allocation of Profits and Losses. Unless the Managing Members agree otherwise in writing, the Company's profits and losses shall be allocated as follows:

<u>Managing Members</u>	<u>Allocation</u>
VLT	50%
BT Holdings	50%

4.5. Distributions. Distributions shall be made to the Managing Members at the times and in the aggregate amounts determined by the Managing Members. Such distributions shall be allocated among the Managing Members in the same proportion as their then capital account balances.

4.6. Limits on Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to any Managing Member if such distribution would violate Section 18-607 of the Act or other Applicable Law.

4.7. Tax Matters. The Managing Members of the Company and the Company intend that the Company be treated as a partnership for all income tax purposes and will file such necessary and appropriate forms in furtherance thereof. VLT will be the "tax matters partner" (as such term is defined in Section 6231(a)(7) of the Code). The tax matters partner shall conduct its duties as tax matters partner of the Company in accordance with the procedures set forth in Article IV of Annex 3 to the Framework Agreement.

ARTICLE 5

RESTRICTIONS ON THE TRANSFERS OF INTERESTS

5.1. General Prohibition.

(a) During the term of the Company, except as provided in Sections 12.2, 12.3, 23.3 and 23.4 of the Framework Agreement and Sections 5.2 and 5.3 of this Agreement, neither Managing Member shall directly or indirectly sell, transfer, assign, charge, mortgage, hypothecate, pledge, encumber, grant a security interest in, grant any right or option or create any convertible, exchangeable or derivative security with respect to, or otherwise dispose of (whether by operation of law or otherwise) (each, a “Transfer”), any of its membership interests in the Company or any rights or interests therein or thereto or in the proceeds thereof; provided, however, that notwithstanding the foregoing, the provisions of this Section 5.1 shall not prohibit any merger, consolidation or other business combination or Change of Control involving, or sale or other Transfer of, any of the Voting Securities of a parent.

(b) Any attempt to Transfer any membership interests in the Company, or any rights or interests therein or thereto or in the proceeds thereof, in violation of this Article 5 shall be null and void *ab initio*, and the Company shall not register or recognize any such Transfer.

5.2. Required Transfers. If (a) pursuant to Section 12.3 of the Framework Agreement, a Managing Member Transfers any or all of its shares in Thistle BV, or BT Transfers any or all of its shares in BT Holdings, or (b) pursuant to Section 23.3 or 23.4 of the Framework

Agreement, a Managing Member Transfers its shares in Thistle BV and shares or other equity interests in DirectorCo and the Newco Subsidiaries to the other Managing Member or its parent:

(a) all of the transferring Managing Member's membership interests in the Company shall also be Transferred to the other Managing Member;

(b) the transferring Managing Member shall cause its Representatives on the Company Board to resign with effect as of the closing of the sale and purchase of its membership interests in the Company and the other Managing Member shall thereafter be entitled to appoint successor Representatives and shall otherwise have all the rights and powers of the other Managing Member; and

(c) this Agreement and the Certificate shall be appropriately amended to reflect the foregoing.

5.3. Permitted Transfers. Subject to Section 5.4, either Managing Member may, with the prior written consent of the other Managing Member, which consent shall not be unreasonably withheld or delayed, Transfer its membership interests in the Company to a direct or indirect wholly-owned Subsidiary of such Managing Member or such Managing Member's parent; provided, that, (i) the transferring Managing Member confirms in writing that it remains obligated to perform the obligations contemplated to be performed by it pursuant to this Agreement and the other Transaction Agreements; (ii) such transferee shall have agreed in writing to be bound by the terms and conditions of this Agreement and, to the extent applicable, the other Transaction Agreements; (iii) the Transfer complies in all respects with the provisions of this Agreement and any applicable provisions of the other Transaction Agreements, if any;

and (iv) the transferee shall have agreed in writing to re-Transfer such membership interests in the Company to the transferring Managing Member if it no longer qualifies as a wholly-owned Subsidiary of the transferring Managing Member or such Managing Member's parent.

5.4. Tax Consequences. Notwithstanding Section 5.3, no Transfer of any membership interests in the Company or any rights or interests therein or thereto or in the proceeds thereof shall be made or recognized if it would result in more than *de minimis* adverse Tax consequences to either Managing Member.

ARTICLE 6

LIABILITY; INDEMNIFICATION

6.1. Liability of Managing Members and Manager. A Managing Member exercising management powers or responsibilities for or on behalf of the Company shall not have personal liability to the Company or its Managing Members for damages for any breach of duty in such capacity, provided that nothing in this Section 6.1 shall eliminate or limit the liability of any such Managing Member if a judgment or other final adjudication adverse to such Managing Member establishes that such Managing Member's acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law, or that such Managing Member personally gained through such act or omission a financial profit or other advantage to which such Managing Member was not legally entitled.

6.2. Indemnification. To the fullest extent permitted by law, the Company shall indemnify, hold harmless, protect and defend each of the Managing Members and the Representatives and may indemnify, hold harmless, protect and defend each of the officers, employees and agents, if any, of the Company (collectively, the "Indemnitees"), against any losses, claims, damages or liabilities, including, without limitation, legal or other expenses incurred in investigating or defending against any such loss, claim, damages or liability, and any amounts expended in settlement of any claim (collectively, "Liabilities"), to which any Indemnitee may become subject by reason of any act or omission (even if negligent or grossly negligent) performed or omitted to be performed on behalf of the Company or by reason of the fact that such Indemnitee was a Managing Member, Representative, employee or agent of the Company or is or was serving at the request of the Company as a director, trustee, manager, officer, employee or agent of another corporation, partnership, joint venture, limited liability company, trust or other enterprise. Notwithstanding the foregoing, no indemnification may be made to or on behalf of any Indemnitee if a judgment or other final adjudication adverse to such Indemnitee establishes (a) that its, his or her acts were committed in bad faith or involved intentional misconduct or a knowing violation of law or (b) that it, he or she personally gained through such an act or omission a financial profit or other advantage to which it, he or she was not legally entitled. The provisions of this Section shall continue to afford protection to each Indemnitee regardless of whether such Indemnitee remains a Managing Member, Representative, officer, employee or agent, if applicable, of the Company. Any indemnity under this Section 6.2 or otherwise should be paid out from and to the extent of the Company's assets only. The Company shall advance legal fees and expenses to any Indemnitee, in connection with the

defense of Liabilities, subject to an undertaking that such Indemnatee will reimburse the amounts so advanced if it is determined pursuant to the foregoing, that the Indemnatee is not entitled to indemnification hereunder.

ARTICLE 7

DISSOLUTION

7.1. Dissolution. The Company shall dissolve, and its affairs shall be wound up, upon the first to occur of the following:

- (a) the end of the term of the Company as provided in Section 1.4;
- (b) the completion of the dissolution of the Newco Group pursuant to the Framework Agreement;
- (c) the agreement of the Managing Members to dissolve the Company; or
- (d) the entry of a decree of judicial dissolution under Section 18-802 of the Act.

7.2. Waiver. Each Managing Member waives any and all rights it may have to withdraw from the Company or to cause a voluntary dissolution of the Company, except as specifically provided in this Agreement.

ARTICLE 8

MISCELLANEOUS

8.1. Further Assurances. Each party shall execute, or cause to be executed, such documents and other instruments, and take or cause to be taken such further actions as may be reasonably necessary to carry out the provisions of this Agreement and the transactions contemplated hereby.

8.2. Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally, sent by facsimile transmission (with confirmation of receipt) or sent by internationally recognized courier service, postage prepaid. Any such notice shall be deemed given when so delivered personally or, if sent by facsimile, at the time of receipt of a legible copy thereof or, if sent by internationally recognized courier service, three days after the date of deposit with the courier service, postage prepaid, and shall be sent as follows:

(i) if to VLT, to:

AT&T Corp.
295 Maple Drive
Basking Ridge, NJ 07920
Attention: Walter G. DeSocio, Esq.
Facsimile No.: 011-44-171-925-8232

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
United States of America
Attention: Richard D. Katcher, Esq.

Stephanie J. Seligman, Esq.
Facsimile No.: (212) 403-2000

(ii) if to BT Holdings, to:

BT (Netherlands) Holdings B.V.
c/o British Telecommunications plc
81 Newgate Street
London EC1A 7AJ
England
Attention: Jack Greenberg, Esq.
Facsimile No.: 011-44-171-356-5608

with a copy to:

Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, New York 10019-6064
United States of America
Attention: Toby S. Myerson, Esq.
Facsimile No.: (212) 757-3990

and:

Bird & Bird
90 Fetter Lane
London EC4A 1JP
England
Attention: David Kerr, Esq.
Facsimile No.: 011-44-171-415-6111

Either party may by notice given in accordance with this Section 8.2 to the other party designate another address, facsimile number or Person for receipt of notices hereunder.

8.3. Entire Agreement. This Agreement, together with the other Transaction Agreements, contain the entire agreement between the parties with respect to the transactions contemplated hereby and supersede the Term Sheet and all prior term sheets, discussions,

negotiations and agreements, written or oral, with respect thereto (other than the Confidentiality Agreements).

8.4. Waivers and Amendments; Preservation of Remedies. This Agreement may be amended, superseded, canceled, renewed or extended, and the terms hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. No delay on the part of either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of either party of any such right, power or privilege, nor any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other such right, power or privilege.

8.5. Severability. In case any provision of this Agreement shall be held invalid, illegal or unenforceable in a jurisdiction, such provision shall be modified or deleted, as to the jurisdiction involved, only to the extent necessary to render the same valid, legal and enforceable, and the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby nor shall the validity, legality or enforceability of such provision be affected thereby in any other jurisdiction.

8.6. Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Delaware applicable to contracts made and to be performed entirely within such State.

8.7. Dispute Resolution; Submission to Jurisdiction. The provisions of Sections 24.3, 24.4, 24.5, 24.6 and 24.8 of the Framework Agreement shall be incorporated herein by reference and shall have full force and effect as if set forth herein in full.

8.8. Consent to Specific Performance. The parties hereto declare that it is impossible to measure in money the damages that would be suffered by a party by reason of the failure by the other party to perform any of its obligations hereunder. Therefore, if either party shall institute any action or proceeding to enforce the provisions hereof, the party against whom such action or proceeding is brought hereby waives any claim or defense therein that the other party has an adequate remedy at law.

8.9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. Signatures delivered by telecopy shall have the same effect as the manual original signatures.

8.10. Third Party Beneficiaries. The Indemnitees shall be deemed to be third party beneficiaries of the provisions of Section 6.2.

IN WITNESS WHEREOF, this Agreement has been executed and delivered by
the parties set forth below as of the date first written above.

VLT CORPORATION

By _____
Name:
Title:

BT (NETHERLANDS) HOLDINGS B.V.

By _____
Name:
Title:



RECYCLED

ED11

800-222-0910

LEGAL

ALL STATE

EXHIBIT K-1

FORM OF NON-REGULATED SERVICES AGREEMENT

Date: # _____

(1) [NEWCO]

(2) BRITISH TELECOMMUNICATIONS PLC

NON REGULATED SERVICES AGREEMENT

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THIS AGREEMENT is made the ____ day of _____

BETWEEN

- (1) [Newco], a company incorporated in [] whose registered office is at [] ("Newco") and
- (2) British Telecommunications public limited company, a company registered in England No 1800000 whose registered office is at 81 Newgate Street, London, EC1A 7AJ, England (the "Supplier")

WHEREAS:

- A. Newco has established and will continue to develop, enhance and modify the Global Platform (as hereinafter defined) in order to provide international enhanced and value-added telecommunication services.
- B. Newco requires services from the Supplier in order to assist it in the development, modification and enhancement of the Global Platform and in the provision of international enhanced and value-added telecommunication services.
- C. The Supplier has agreed to provide Newco with services on the terms and conditions contained in this Agreement, provided however that this Agreement will not govern Regulated Services and other services provided under separate agreements between the Parties.
- D. The Supplier and Newco shall at all times comply in all material respects with all relevant laws and each Party shall comply with any Licence granted to it to run a Telecommunication System that are or may be applicable to the performance of all duties and responsibilities hereunder.
- E. Subject to the provisions of Clause 26, this Agreement is not intended nor shall operate to inure to the benefit of any third party nor create any rights, remedies, duties or obligations in, for or to any third party.

NOW IT IS AGREED AS FOLLOWS:

- 1. Definitions
- 1.1 In this Agreement, unless the context otherwise requires, words and expressions have the following meanings:

"Affiliate" means any entity that controls, is controlled by or is under common control with a party;

"Agreement" means this Agreement, including all Annexes and Schedules;

"Annex" means an Annex to a Schedule;

"Appendix" means an appendix to this Agreement;

"BT Licence" means the licence granted to BT pursuant to section 7 of the Act under which BT runs the BT System;

"BT Operational Buildings" means buildings owned or leased by BT containing switching equipment forming part of the BT System

"BT System" means the applicable system described in Annex A of the BT Licence as in force at the date of this Agreement

"Change Control" means those procedures referred to in Clause 7 and Schedule 6;

"Charge" means a charge agreed between the Parties for a Deliverable provided pursuant to this Agreement;

"Closing" means the coming into effect of the Framework Agreement;

"Commencement Date" means the date of Closing;

"Day" means a calendar day;

"Deliverable" means any Service or Product that the Supplier is obliged to deliver pursuant to this Agreement;

"Framework Agreement" means the agreement among AT&T Corp., VLT Corporation, British Telecommunications plc, BT (Netherlands) Holdings BV and Thistle BV.

"Global Communications Services" means the services defined as such in the Framework Agreement

"Global Platform" means those transmission, switching, signalling, network intelligence and/or service management systems that from time to time are owned, leased, managed or contracted for by Newco excluding any Remote Network, in order to provide the Services;

"Global Point of Presence" means a point on the Global Platform at which Messages pass between the Global Platform and either the Supplier's network or a Remote Network;

"Hardware" means any computers, peripherals, or other physical items of equipment;

"Instruction" means Newco's written request to the Supplier for the provision of any Deliverable (or part thereof) that has been issued in accordance with Clause 3.4;

"Intellectual Property Rights" means patent rights of any kind, registered and unregistered design rights, rights relating to semiconductor chip topography, copyrights of any kind, extraction rights in relation to databases, rights relating to software, rights relating to registered and unregistered trade marks or service marks or logos, applications or rights to apply for any of the foregoing, any similar registrable rights to any of the foregoing anywhere in the world, and rights of confidentiality in information of any kind;

"Message" means anything falling within subparagraphs (a) to (d) in the definition of Telecommunication System in this clause;

"Month" means a calendar month;

"Newco's Representative" means the person (or that person's nominee) authorised by Newco to represent its interests with respect to a Deliverable;

"Operational Site" means premises owned or controlled by the Supplier;

"Party" means a party to this Agreement;

"Product" means any tangible item including Hardware or Software as set out in a Schedule;

"Regulated Service" means any service provided by BT which is any way controlled or regulated by the BT Licence.

"Remote Network" means those Telecommunication Systems owned and/or operated by a third party by means of which Messages are passed between any Global Point of Presence and any Site located outside the Territory;

"Schedule" means a schedule that is annexed to this Agreement;

"Service" means anything in a Schedule to be delivered other than a Product;

"Site" means any premises at which any Deliverable is to be provided unless otherwise defined in a Schedule;

"Software" means computer programs and associated documentation;

"Supplier's Representative" means the person or that person's nominee authorised by the Supplier to represent its interests with respect to a Deliverable;

"Technical Information" means confidential information of a technical nature required by the Supplier, its agents and/or subcontractors for the performance of the Supplier's obligations under this Agreement;

"Telecommunication System" means a system for the conveyance, through the agency of electric, electro-magnetic, electro-chemical or electro-mechanical energy, of:

- (a) speech, music and other sounds;
- (b) visual images;
- (c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or
- (d) signals serving for the actuation or control of machinery or apparatus.

"Unregulated Service" means a service that is not a Regulated Service.

- 1.2 The expressions "Newco" and "Supplier" shall include their respective successors and permitted assigns.
- 1.3 Except as expressly provided herein, any reference to any legislative act shall be deemed to include any amendment, replacement or re-enactment thereof for the time being in force and to include any delegated legislation, orders, notices, directions, consents or permissions made thereunder and any condition attaching thereto.
- 1.4 In this Agreement words importing the singular include the plural and vice versa and words importing gender include any other gender.
- 1.5 The headings of Clauses are for ease of reference and shall not affect the construction of this Agreement.

- 1.6 References in this Agreement to Clauses or Schedules are references to clauses of or schedules to this Agreement.
- 1.7 Any undertaking in this Agreement not to do any act or thing shall be deemed to include an undertaking not to permit or suffer the doing of that act or thing.
- 1.8 The expression "person" used in this Agreement shall include (without limitation) any individual, partnership, body corporate or unincorporated association.
- 2. Term.**
- 2.1 This Agreement shall commence on the Commencement and shall continue until terminated in accordance with its terms.
- 3. Provision of Deliverables.**
- 3.1 In consideration of the Charges, the Supplier hereby agrees to provide the Deliverables to Newco in accordance with the Schedule relating to each Deliverable.
- 3.2 Either the Supplier or Newco may propose Deliverables not already contained in the Schedules. Upon acceptance of the proposed Deliverables (or parts thereof), the terms of provision of each one or more of the proposed Deliverables shall be set out in one or more Schedules to be agreed between the parties. Such new Schedules shall thereupon become part of this Agreement.
- 3.3 Newco agrees to pay the Supplier the Charges applicable to each Deliverable.
- 3.4 The Supplier will provide each Deliverable from the date stated in the Instruction and for the period stated in the Instruction, unless such Deliverable is terminated in accordance with Clause 8.
- 3.5 Newco and the Supplier shall use reasonable endeavours to perform their obligations under this Agreement by the agreed time but the Parties acknowledge that, save where expressly agreed, time shall not be of the essence.
- 3.6 Except as otherwise provided in a Schedule, the Supplier warrants that the Deliverables will be provided with all the reasonable care and skill of a competent telecommunications service-provider. EXCEPT AS MAY OTHERWISE BE EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, SUPPLIER DISCLAIMS ALL IMPLIED WARRANTIES,

INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

- 3.7 Each Party shall ensure that the other Party, its employees, agents and subcontractors have such access to any Site as may be reasonably necessary for the performance by the other Party of its obligations under this Agreement and in any event such access as may be specified in the applicable Schedule.
- 3.8 All employees of the other Party, its agents or subcontractors shall whenever present at a Site:
- (a) comply with all security procedures in force at that Site;
 - (b) comply with all occupational health and safety requirements in force at that Site which have been notified to the other Party in advance;
 - (c) comply with any other requirements or practices which apply generally to persons working at that Site and which have been notified to the other Party in advance.
- 3.9 The Party with control over a Site ("Owner") shall ensure that no employee of the other Party, its agents or subcontractors when requesting access to any Site pursuant to Clause 3.7 is refused admittance to such Site or required to leave such Site except for good and substantial cause. In the event of any such refusal or requirement without good cause:
- (a) the other Party shall be excused from any failure to provide a Deliverable in accordance with the applicable service levels to the extent that such failure results from such refusal or requirement; and
 - (b) the Owner shall reimburse the other Party in respect of any additional costs and expenses which it may incur as a result of such refusal or requirement.
- 4. Charges and Payment.**
- 4.1 Where a Charge is expressed in a Schedule as an annual sum, the Supplier and Newco may agree that payment of the same be made on either a quarterly or monthly basis, proportionally.
- 4.2 All invoices in respect of a Deliverable shall be properly made out and addressed to Newco in accordance with the Conditions in the relevant

Schedule. In the absence of such a provision in the Conditions, invoices shall be addressed to Newco at the address given at the head of this Agreement.

- 4.3 Unless otherwise agreed in a Schedule, the Supplier shall submit invoices to Newco covering Deliverables actually rendered. Newco undertakes to pay the Supplier within 30 days of its receipt of an invoice.
- 4.4 All Charges are exclusive of any applicable value added tax, sales tax, or other indirect taxes which shall be charged in accordance with applicable law and payable by Newco except to the extent that Newco provides the Supplier with a valid tax exemption certificate. Income taxes shall not be chargeable to Newco. The Supplier agrees to co-operate fully with Newco in obtaining tax exemptions or refunds or making claims.
- 4.5 All Charges shall be invoiced and paid in the pounds sterling.
- 4.6 In respect of any sum payable under this Agreement, in the event of late payment interest shall be chargeable from the date on which such sum was due and payable until the date of payment. Such interest shall be calculated from day to day at a rate equivalent to two per cent above LIBOR (as defined in the Framework Agreement) and shall accrue both before and after judgement. Interest shall not be chargeable until the Supplier has delivered at least 2 written reminders to Newco.
- 4.7 The method whereby a Charge shall be calculated and the procedures for the review and variation of a Charge shall be in accordance with the relevant Schedule. In those cases where the manner of calculation and variation of a Charge is not contained in a Schedule, the parties shall negotiate the manner of calculation and variation within a reasonable time after the signing of this Agreement. Charges shall be based on an arm's length relationship between the Parties.
- 4.8 If there is no other provision in this Agreement to the contrary all Charges shall be reviewed on an annual basis according to prevailing market rates for similar services and revised by the Supplier accordingly.
- 5. **Authorised Representatives.**
 - 5.1 Newco's Representative and the Supplier's Representative in respect of each of the Deliverables shall be clearly identified in documentation relating to each Deliverable following an Instruction.

- 5.2 Unless otherwise agreed expressly or by implication, each Party will provide the other with at least 7 days' notice in writing of any change of authorised representative.
- 5.3 Other key personnel responsible for specific activities in relation to a Deliverable may be referred to in documentation pertaining to that Deliverable.
- 6. Review Meetings.**
- 6.1 The Parties shall hold quarterly meetings to consider requirements for Deliverables, quality of Deliverables, the Charges, Newco's satisfaction with services provided by the Supplier, and other matters to be agreed on by the Parties.
- 7. Change Control.**
- 7.1 In the event that either Party requires a change or modification to a Deliverable or procedure to be followed under this Agreement, then the Party requesting the same shall prepare the necessary justification to this effect using the Change Control Process contained in Schedule 6. Upon acceptance in writing of the proposed change (or part thereof) by both Parties, the resulting agreed change or modification shall constitute an amendment to the Agreement and/or to the relevant Schedule and, where appropriate, shall form part of the Deliverable from an agreed date.
- 7.2 Subject to Clause 7.1, the Supplier reserves its right to change or modify the Deliverables in the normal course of its business. The Supplier shall give Newco advance notice of an impending change or modification to a Deliverable and shall ensure that such change or modification keeps any inconvenience or any interruption to any Deliverable to an absolute minimum. In no event shall any such change adversely affect the performance or functionality of any Deliverable defined in any Schedule.
- 8. Suspension or Termination of Deliverables.**
- 8.1 Subject to Clause 9, the Supplier or Newco may serve not less than 6 months (or such other period as may be specifically provided for in the relevant Schedule) notice of termination on the other to the effect that a Deliverable shall be terminated. Where Newco terminates a Deliverable, the Supplier shall be entitled to recover from Newco the reasonably incurred unavoidable third party costs of the Supplier which the Supplier is unable to mitigate and is able to demonstrate, and which relate to the remaining term of the Deliverable. Where these costs

reflect the purchase price of tangible goods not incorporated into the Supplier's network, title to the goods shall pass to Newco.

8.2 If an event of Force Majeure continues and a right of termination arises under Clause 12.4, then either Party may terminate the Deliverable so affected.

8.3 Termination of any Deliverable shall not affect any rights or remedies of the Parties arising or accruing prior to the date of termination of such Deliverable.

9. Termination.

9.1 The Supplier or Newco shall have the right by notice in writing to terminate this Agreement:

- (a) forthwith if an event of Bankruptcy (as defined in the Framework Agreement) shall have occurred with respect to the other Party; or
- (b) on 3 years written notice by the Supplier upon termination of the Framework Agreement in accordance with its terms; or
- (c) forthwith upon the dissolution or termination of the Newco Group or the Supplier; or
- (d) on three years written notice from the date the Supplier ceases to be a shareholder in Newco.

10. Consequences of Termination.

10.1 The termination of this Agreement shall be without prejudice to the rights of the Parties accrued up to the date of such termination.

10.2 Upon termination of any Deliverable under a Schedule, the Supplier will provide all reasonable co-operation with any alternative service provider nominated by Newco for the purpose of effecting a smooth handover at no additional charge, except that the Supplier shall be entitled to reasonable compensation for providing such cooperation: (1) where the termination of the Deliverable is as a result of Newco's breach of this Agreement; or (2) if the Supplier is reasonably required to devote significant resources to provide such cooperation, such that fairness would warrant that the Supplier receive reasonable and appropriate compensation.

- 10.3 The termination of this Agreement shall not affect the Supplier's obligation to provide any Deliverable the Instruction for which has been accepted and agreed prior to termination.
- 11. Dispute Resolution and Breach of the Agreement.**
- 11.1 In the event of a dispute between the Parties concerning any matter arising from or connected with this Agreement, the Parties shall use their reasonable endeavours to settle the dispute in accordance with the procedures set out in Schedule 12.
- 12. Force Majeure.**
- 12.1 Neither Party shall be liable for any breach of this Agreement due to any cause beyond its reasonable control ("Force Majeure") including without limitation Act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government, highway authority or other competent authority, compliance with any statutory obligation or executive order, industrial disputes (whether or not involving the employees of the Party seeking to rely on the this clause), fire, lightning, explosion, flood, subsidence, weather of exceptional severity, acts or omissions of persons for whom neither Party is responsible including without limitation public telecommunication operators in their capacity as such Provided That a Party shall only be excused from liability under this Clause 12.1 to the extent that it has used all due diligence to remove or avoid the effect of Force Majeure.
- 12.2 To the extent that the Supplier is unable to provide any Deliverable due to Force Majeure and Newco is under an obligation to purchase such Deliverable from the Supplier then Newco shall be entitled to obtain equivalent services from another source at Newco's expense for the minimum commercially reasonable period.
- 12.3 The Supplier or Newco will promptly notify the other of the occurrence of any Force Majeure event which has caused or is likely to cause it to fail to perform its obligations under this Agreement and will use reasonable endeavours to overcome or limit the consequences of the event for the other Party.
- 12.4 If a Force Majeure event continues for a period of 30 days calculated from the date when the Party whose obligations are being prevented from being performed was so prevented, either Party may initiate the Change Control Process proposing how the obligation affected can be achieved by alternative methods. In the event that the Parties are unable to reach agreement on such alternative methods within 60 days

of the date of the notice having been given under Clause 12.3 then the affected Party will have the right to terminate the Deliverable.

13. Limitation of Liability.

- 13.1 Newco and the Supplier shall indemnify and hold each other harmless against all liability, loss, damage and expense (including but not limited to reasonable legal fees and legal costs) resulting from injury to or death of any person (including injury to or death of their respective subcontractors or employees) to the extent that such liability, loss, damage or expense was caused by any negligent or wilful act or omission by the Party from whom indemnity is sought, its agents or employees.
- 13.2 Subject to Clause 13.3, Newco and the Supplier shall indemnify and hold each other harmless against all liability, loss, damage and expense (including but not limited to reasonable legal fees and legal costs) resulting from loss of or damage to real or personal property (including damage to their property) to the extent that such liability, loss, damage or expense was caused by any negligent or wilful act or omission by the Party from whom indemnity is sought, its agents or employees.
- 13.3 THE AGGREGATE LIABILITY OF THE PARTY FROM WHOM ANY INDEMNITY IS SOUGHT UNDER THIS CLAUSE 13, IN RESPECT OF ANY OR ALL CLAIMS MADE IN ANY YEAR, SHALL BE LIMITED TO THE GREATER OF 6 MILLION POUNDS STERLING OR THE AGGREGATE OF ALL CHARGES IN THE PRECEDING COMPLETE FISCAL YEAR OF THE SUPPLIER IN RESPECT OF ANY AND ALL CLAIMS MADE IN THE YEAR.
- 13.4 WHERE IN RELATION TO ANY SERVICE THE APPLICABLE SERVICE DESCRIPTION PROVIDES FOR A SYSTEM OF REBATES OR CREDITS AGAINST CHARGES IN RESPECT OF FAILURE TO PROVIDE SUCH SERVICE IN ACCORDANCE WITH THE APPLICABLE SERVICE LEVELS, SUCH REBATES OR CREDITS SHALL BE THE EXCLUSIVE FINANCIAL REMEDY OF NEWCO IN RESPECT OF SUCH FAILURE. FOR THE AVOIDANCE OF DOUBT SUCH REBATES OR CREDITS SHALL BE DEEMED TO BE A LIABILITY OF THE SUPPLIER FOR THE PURPOSES OF THIS AGREEMENT.
- 13.5 Except with respect to such loss or damage as is referred to in Clauses 13.1 and 13.2, Newco shall ensure that to the extent permitted by applicable law its contracts with Customers exclude all liability of the Supplier to the Customer and preclude the Customer from making any claim against the Supplier, and in the event that any such claim is made

by a Customer howsoever arising from or related to the provision of Services under this Agreement Newco shall indemnify the Supplier in respect of such claim.

13.6 IN ANY EVENT, IN NO CIRCUMSTANCES INCLUDING THE NEGLIGENT ACT OR OMISSION OF ITSELF, ITS SERVANTS OR AGENTS SHALL EITHER PARTY BE LIABLE TO THE OTHER IN CONTRACT, TORT OR OTHERWISE FOR ANY LOSS OF REVENUE, BUSINESS, CONTRACTS, ANTICIPATED SAVINGS OR PROFITS OR ANY LOSS OR DESTRUCTION OF DATA OR FOR ANY INDIRECT OR CONSEQUENTIAL LOSS WHATSOEVER.

13.7 The provisions of this Clause 13 shall continue to apply notwithstanding the termination or expiry of this Agreement for any reason whatsoever.

14. Intellectual Property Rights Indemnity.

14.1 The Supplier will indemnify and hold harmless Newco against any damages (including reasonable costs and attorneys' fees) that may be awarded or agreed to be paid to any third party in respect of any claim or action that the normal operation, possession, receipt or use of any Deliverables by Newco infringes any Intellectual Property Right of said third party ("Intellectual Property Infringement") provided that Newco:

- (a) gives notice promptly to the Supplier of any Intellectual Property Infringements (or any allegations thereof) upon becoming aware of the same;
- (b) gives the Supplier the sole conduct of the defence to any claim or action in respect of an Intellectual Property Infringement (or any allegation thereof) and does not at any time admit liability or otherwise attempt to settle or compromise the said claim or action except upon the express instructions of the Supplier in writing; and
- (c) acts in accordance with the reasonable instructions of the Supplier and gives to the Supplier such assistance as it shall reasonably require in respect of the conduct of the said defence including, without prejudice to the generality of the foregoing, the filing of all pleadings and other court process and the provision of all relevant documents.

14.2 The Supplier shall reimburse Newco its reasonable costs incurred in complying with the provisions of Clause 14.1.

- 14.3 The Supplier shall have no liability to Newco in respect of an Intellectual Property Infringement if the same results from any breach of Newco's obligations under this Agreement.
- 14.4 In the event of an Intellectual Property Infringement, the Supplier shall be entitled at its own expense and option either to:
- (a) procure the right for Newco to continue using the Deliverables; or
 - (b) make such alterations, modifications or adjustments to the Deliverables that they become non-infringing without incurring a material diminution in performance or function; or
 - (c) replace the Deliverables with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function.
- 14.5 If the Supplier in its reasonable judgement is not able to exercise any of the options set out at Clauses 14.4(a), 14.4(b) or 14.4(c) above within 90 days of the date it received notice of the Intellectual Property Infringement, then, Newco, without prejudice to any other rights or remedies it may have hereunder or at law, shall be entitled to terminate the Deliverable affected by 7 days' notice upon the Supplier.
- 14.6 The Supplier shall have no liability to Newco in respect of an Intellectual Property Infringement if the same results from work carried out by the Supplier, its agents or employees in accordance with directions or specifications given by Newco or its Customer.
- 14.7 Newco shall indemnify the Supplier in respect of any such Intellectual Property Infringement in the same terms as Clauses 14.1- 14.6 mutatis mutandis.
- 14.8 The provisions of this clause 14 shall not apply in respect of Project Deliverables as defined in the IPR Agreement referred to in the Framework Agreement. The IPR indemnity for Project deliverables shall be either negotiated on a case by case basis or subject to the default provisions set out in the IPR Agreement.
15. **Right of Audit.**
- 15.1 Not more than once a year, Newco may require the Supplier to obtain at Newco's expense a certificate from a reputable firm of independent chartered accountants showing that any invoice(s) submitted by the Supplier to Newco in respect of any Deliverable properly relates to such

Deliverable and that any Charge referred to in such invoice(s) has been correctly calculated.

- 15.2 For the purposes of Clause 15.1, the invoice if mathematically accurate shall be deemed to have been correctly calculated if the Deliverable, the subject of the invoice, has been supplied according to the Charges.
- 15.3 If any such audit shall reveal that any invoice(s) submitted by the Supplier contains any errors or omissions, then the Supplier shall forthwith make good such errors or omissions refund to Newco any overpayment previously made together with interest at the rate referred to in Clause 4.6, invoice Newco any undercharge made and bear a fair and equitable proportion of any expenses incurred in having the audit carried out by the said firm of independent chartered accountants.

16. Ownership of Supplier's Intellectual Property Rights.

- 16.1 Save in respect of Project Deliverables as defined in the IPR Agreement referred to in the Framework Agreement, and unless otherwise provided for in the Schedules, title and all Intellectual Property Rights in or relating to any Deliverable (or part thereof) made available by the Supplier to Newco shall be and shall remain vested in and shall remain the absolute property of the Supplier or its licensors.
- 16.2 Save in respect of Project Deliverables as defined in the IPR Agreement referred to in the Framework Agreement, the Supplier hereby grants to Newco for the period the Supplier provides services under this Agreement:
 - 16.2.1 In respect of Intellectual Property Rights of the Supplier in the Deliverable, the royalty free right (with the right freely to grant sub-licences) in any Deliverable to use such Deliverable for the purpose of providing Global Communication Services
 - 16.2.2 In respect of Intellectual Property Rights of third parties, the royalty free right in any Deliverable to use such Deliverable for the purpose of providing Global Communications Services to such extent as the Supplier is able to grant such rights under the rights granted to the Supplier by the relevant third party.
- 16.3 Each Party acknowledges that any trade marks, trade names, service marks or service names applied by the other Party to the Deliverables are the property of such other Party or its licensors and that the first mentioned Party shall acquire no interest in the same by the use of the Deliverables or otherwise under this Agreement. Except as otherwise agreed, neither Party shall be entitled to use in the course of trade in

relation to any goods or services of the other Party any registered or unregistered trade mark, service mark, logotype or abbreviation of the name of such other Party (or of any part thereof) so that any person might reasonably import a connection between those goods or services and such other Party (or any part thereof).

16.4 Without prejudice to Clause 16.3, each Party shall comply with all reasonable instructions which the other Party may give from time to time with regard to the use of any indication of property and rights of that other Party.

17. Service of Notice.

17.1 Any and all notices pursuant to this Agreement shall be in writing and signed by (or by some person duly authorised by) the Party giving it and may be served by leaving it at, or sending it by facsimile (confirmed by registered post or air mail) or by hand to the address of the relevant recipient Party or Parties set out in Clause 17.2 (or as otherwise notified from time to time hereunder). Any notice so served by facsimile or by hand shall be deemed to have been received on the next working day after the message has been transmitted or received.

17.2 The addresses of the Parties for the purpose of Clause 17.1 are as follows:

NEWCO:

For the attention of the General Legal Counsel of Newco[address]

With a copy to:

□

SUPPLIER

For the attention of ,
British Telecommunications plc,
81 Newgate Street
London
EC1A 7AJ
England

Fax: +44 (0) 171 356

With a copy to:

London
England

Fax: +44 (0) 171 356

18. Waiver.

18.1 Failure or neglect by either Party hereto to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of either Party's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice either Party's rights to take subsequent action.

19. Confidentiality.

19.1 The Parties shall keep confidential all confidential information which is obtained by them under this Agreement whether or not that information is related to the business affairs of either of the Parties.

19.2 The restrictions in Clause 19.1 shall not apply to:

19.2.1 information which enters the public domain otherwise than by breach of this Agreement;

19.2.2 information already in the possession of a Party before disclosure to it under this Agreement and which was not acquired directly or indirectly from another Party;

19.2.3 information lawfully obtained from a third party who is free to disclose such information;

19.2.4 information developed or created by a Party independently of this Agreement;

19.2.5 information requested by any governmental or regulatory authority entitled by law to require the same PROVIDED ALWAYS THAT, prior to such disclosure if practicable, the disclosing Party shall notify in writing the owner of such information (where the identity of such owner can be determined) that such request has been made;

19.2.6 Technical Information which the Supplier must communicate to its sub-contractors in order for them to carry out particular sub-contracted work PROVIDED ALWAYS THAT the Supplier

procures that the sub-contractors will keep such information confidential and only use it for the purpose of carrying out the particular sub-contracted work;

PROVIDED THAT the Party seeking to rely on an exemption contained in this Clause 19.2 shall provide such evidence as the other Parties may reasonably require to prove that the information sought to be exempted falls within the relevant category.

19.3 The restrictions contained in Clause 19.1 shall last for a period of five years from the relevant disclosure and shall survive termination of this Agreement for whatever reason.

20. Order of Precedence.

20.1 In the event of any inconsistency between the terms and conditions of this Agreement and the Framework Agreement, the provisions of Section 3.1 of the Framework Agreement shall apply.

21. Severability.

21.1 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

21.2 Nothing in this Agreement shall be deemed to constitute a partnership between the Parties nor constitute one the agent of another in any manner or for any purpose whatsoever.

22. Non-Exclusivity and Preferred Supplier Status.

22.1 For the avoidance of doubt, except as specifically stated in the Customer Support Services Schedule, nothing in this Agreement shall be deemed to create any obligation on Newco to source its requirements for Deliverables exclusively from the Supplier. Newco reserves the right to source the supply of services in its best interests. However, Newco shall treat the Supplier as its "preferred supplier" as defined in the Framework Agreement.

23. Law and Jurisdiction.

23.1 This Agreement shall be governed by and construed in accordance with the laws of England and English courts shall have exclusive jurisdiction.

24. Export Control.

24.1 Newco may receive from the Supplier or be responsible for, products and services including but not limited to technical information, technical training, and/or software of US origin under this Agreement ("the Supplies").

24.2 Newco shall not disclose or re-export, directly or indirectly, such Supplies received from the Supplier, or any direct product thereof, to any country without the prior approval of the United States Government and obtaining the appropriate US export documentation.

24.3 It is Newco's responsibility to ensure that any re-export of the Supplies is licensed in accordance with the export control laws and regulations of the country in which the Supplies are to be sited.

24.4 To the extent required, the provision of Deliverables by the Supplier is subject to the express approval of the government of any country whose laws control the export or re-export of the Supplies.

25. Entire Agreement.

25.1 This Agreement supersedes all oral and written representations and agreements between the Parties relating to the subject matter hereof prior to the date hereof, and this Agreement represents the entire understanding between the Parties in relation to the subject matter hereof.

26. Assignment and Sub-contracting.

26.1 Neither Party shall assign to, transfer, part with, dispose of, or share the whole or any part of this Agreement with any third party.

26.2 Notwithstanding Clause 26.1, either Party may sub-contract in the ordinary course of business.

26.3 Notwithstanding Clauses 26.1 and 26.2, either Party may assign or sub-contract this Agreement to a wholly owned Affiliate. A Party may assign or subcontract this Agreement to any other Affiliate with the consent in writing of the other Party, which consent shall not unreasonably be withheld.

27. Amendment.

27.1 This Agreement shall not be amended, modified, varied or supplemented except in writing signed by authorised representatives for and on behalf of the Parties.

28. Survival.

28.1 The Clauses to this Agreement which by their nature are intended to survive shall survive, following expiry or termination of this Agreement, including but without prejudice to the generality of the foregoing Clauses 1, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 28.

SIGNED for and on behalf
of Newco

SIGNED for and on behalf
of British Telecommunications plc